

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

ORACLE AMERICA, INC., a Delaware  
corporation; ORACLE INTERNATIONAL  
CORPORATION, a California corporation,

Plaintiffs,

v.

HEWLETT PACKARD ENTERPRISE  
COMPANY, a Delaware corporation; and  
DOES 1-50,

Defendants.

)  
)  
)  
) MISCELLANEOUS ACTION  
)

) SUBPOENA IN A CIVIL CASE  
)

) Case No. 1:17-cv-05520  
)

) Principal case pending in  
) United States District Court for the  
) Northern District of California  
) Case No. 3:16-cv-01393 JST  
)

**ORACLE AMERICA, INC. AND ORACLE INTERNATIONAL CORPORATION’S  
MOTION TO COMPEL JENNIFER HINRICHS TO APPEAR AT DEPOSITION**

Oracle America, Inc. and Oracle International Corporation (collectively, “Oracle”) respectively move this Court pursuant to Federal Rule of Civil Procedure 45 for an order compelling Jennifer Hinrichs (“Hinrichs”), a former employee of third-party Abbott Laboratories (“Abbott”), to appear for a deposition arising from an action pending in the United States District Court for the Northern District of California against Hewlett Packard Enterprise Company (the “HPE Action”). *See* Fed. R. Civ. P. 45(c)(1). In support of this motion, Oracle contemporaneously submits a Memorandum,<sup>1</sup> the concurrently-filed Declaration of Daryl Crone and supporting exhibits attached thereto, and states as follows:

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<sup>1</sup> Oracle files the redacted Memorandum and supporting materials provisionally under LR 26.2(c) and is seeking leave to file those materials under seal in a motion filed contemporaneously with this motion.

1. On June 26, 2017, Oracle issued a subpoena to Hinrichs for her deposition, relating to issues Oracle discovered during fact discovery in the HPE Action.

2. Oracle seeks information bearing directly on Oracle's primary allegations against HPE—namely, that by itself and through TERiX Computer Company, Inc., HPE: (1) improperly accessed copyrighted software updates that are necessary to support computer servers running Oracle's proprietary operating system, Solaris; (2) made misrepresentations to customers who had previously contracted with Oracle that TERiX could supply such updates, thereby depriving Oracle of millions of dollars a year in support revenue; and (3) installed these updates on Solaris servers that were not authorized to receive them.

3. Hinrichs is a former Abbott employee, who currently works for AbbVie, a successor corporation to Abbott.

4. Abbott's outside counsel, who had represented it in the TERiX Action, informally accepted service of Oracle's deposition subpoena on Ms. Hinrichs' behalf.

5. The subpoena required Ms. Hinrichs to appear for deposition on July 13, 2017, but, to date, she has refused to attend a deposition.

6. On various occasions between June 29, 2017 and July 21, 2017, Oracle's counsel conferred with Ms. Hinrichs' counsel in an attempt to confirm the taking of the deposition.

7. As of this date, Hinrichs' counsel has not provided Oracle's counsel with dates for the deposition.

8. The parties have complied with the meet and confer requirement under Local Rule 37.2.

WHEREFORE, Oracle respectfully requests (1) that the Court order Jennifer Hinrichs to appear for a deposition, and (2) provide such further relief as is just.

DATED: July 27, 2017

ORACLE AMERICA, INC.  
ORACLE INTERNATIONAL CORPORATION

By: /s/ John D. Fitzpatrick

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Attorneys for Oracle America, Inc. and  
Oracle International Corporation

**Local Rule 37.2 Verification**

Pursuant to Local Rule 37.2, Oracle verifies that it has repeatedly consulted with Abbott by telephone and email over the past several weeks in a good faith effort to resolve this matter without Court intervention but was unable to reach an accord. The conferences took place on:

1. The parties corresponded regarding the potential deposition and the scope of discovery on June 29, 2017; July 6, 2017, July 11, 2017; July 12, 2017; July 13, 2017; and July 17, 2017.
2. On July 21, 2017, Kal Shah later informed me via an electronic mail message that Ms. Hinrichs would not appear for the deposition Oracle scheduled through the subpoena.

By /s/ Daryl M. Crone

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